

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VAUGHN SCOTT, NIGERIA SCOTT,
PRINCE SCOTT, ANDREE HARRIS,
BRENDA SCOTT, KRAIG UTLEY, COREY MARROW,
AS A MINOR CHILD, K.M., A MINOR CHILD,
AND JULIAN RENE,

Plaintiffs,

-against-

14-CV-4441 (SHS)

CITY OF MOUNT VERNON, ET AL.,

Defendants.

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HELD AT: Office of Corporation Counsel
1 Roosevelt Square
Mount Vernon, New York 10550
December 2, 2015
11:05 a.m.

Examination before Trial of the
Plaintiff, KRAIG UTLEY, pursuant to Court
Order, held at the above time and place
before a Notary Public of the State of New
York.

J & L REPORTING SERVICE
of Westchester, Inc.
50 Main Street, Suite 1000
White Plains, New York 10606
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Lisa Dobbo, Reporter

A P P E A R A N C E S:

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Of Counsel

Q. Do you know her?

A. No.

Q. Where did you see her before
2013?

A. She's an officer of the law.
She rides around the neighborhood.

Q. Mount Vernon must be a pretty
small city then.

A. Yes.

Q. How long were the police
officers in your apartment on March 20th,
2013?

A. About three and-a-half hours.

Q. What were they doing?

A. They was trying to search the
house and then one of the officers, they was
telling us that there was an incident trying
to say we was involved in an accident or we
had something to do with the incident and
they had everybody in the living room and
had us sitting there for three and-a-half
hours. Within them three and-a-half hours
one of the officers, Officer Antonini threw
handcuffs on me and he was saying that I was

getting out of control.

Q. Officer Antonini handcuffed you, you said?

A. Yes.

Q. What were you doing before he put the handcuffs on?

A. I was arguing.

Q. What were you saying to him?

A. "This ain't right. You don't have a warrant to be in here," stuff like that.

Q. Were you cursing Antonini, Officer Antonini?

A. I probably cursed a few words out.

Q. Do you recall what you said?

A. "Get the fuck out of here, this ain't fucking right, you're fucking harassing us."

Q. What did Antonini say to you, if anything, after you cursed him?

A. He got in my face, he threatened he'll choke me out and I told him he's not going to do nothing. That's when

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2 A. I wasn't trying to challenge
3 him. I was just making it clear that he
4 wasn't going to do nothing to me.

5 Q. Was that a threat?

6 A. It wasn't a threat. He
7 threatened me.

8 Q. Did any other officers assist
9 in handcuffing you?

10 A. I think about two others.

11 Q. Were you resisting -- did he
12 tell you to turn around and put your hands
13 behind your back?

14 A. No, he actually came in front
15 of me and said "Put your hands behind your
16 back." I said, "No, I'm not putting my
17 hands behind my back because you have no
18 reason to put handcuffs on me. I'm not
19 arrested." He replied with "I'm putting the
20 cuffs on you for my safety and your safety."

21 Q. He indicated that -- Officer
22 Antonini indicated that he was putting the
23 cuffs on you for your safety and his safety?

24 A. Yeah.

25 Q. Did you say anything to him

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2 Q. Did the officers hit anybody
3 during that period of time?

4 A. Not that I know of.

5 Q. Let's focus on Julian Rene.

6 How long have you known Julian Rene?

7 A. I know him since I was ten.

8 Q. He was in the apartment as you
9 indicated; correct?

10 A. Right.

11 Q. What was he doing?

12 A. They was searching Julian and
13 they was observing that he had got grazed
14 because he indicated that he got shot and
15 they wanted to know where he got shot at and
16 so he showed them where he got shot at.

17 Q. So, Julian Rene showed the
18 officers where he got shot?

19 A. Yes.

20 Q. How did he show the officers
21 where he got shot?

22 A. They was saying that we had
23 something to do with the shooting and Julian
24 Rene said "Look, I'm the one that got shot.
25 I'm the victim."

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Q. Julian Rene was shot on
3-20-2013?

A. Yes.

Q. Julian Rene told the police
officers "I'll show you where I got shot?"

A. Yes.

Q. And Julian Rene told the police
officers "I'm the victim?"

A. Yes.

Q. How did Julian Rene show the
police officers that he had gotten shot?

THE WITNESS: What do you mean
shot?

Q. Julian said "I got shot and
I'll show you where I got shot," something
to that effect?

A. Yes.

Q. How did he then show the police
officers where he had been shot?

A. He got up and showed his butt
cheek.

Q. Julian Rene was sitting down?

A. He was sitting town.

Q. Then he got up?

A. He got up.

Q. Then he pulled his pants down and showed the police officers?

A. Yes.

Q. He had gotten shot on the butt cheek?

A. Yes.

Q. Was any blood in that apartment?

A. I don't know.

Q. Julian Rene indicated "I'm the victim," correct?

A. Yes.

Q. Julian Rene told the police officer he was the victim; correct?

A. Yes.

Q. Did Julian Rene tell anybody in the apartment on 3-20-2013 before the officers entered the apartment, did Julian Rene tell anybody that he had been shot?

A. I don't know. I wasn't around if he told them. I found out when he showed the officer that he got shot.

Q. That's the first time you

became aware that Mr. Rene had been shot?

A. Yes.

Q. What about Corey Marrow, had he been shot?

A. Not to my knowledge.

Q. Did Julian Rene tell you or anyone during that time on 3-20-13 how he had gotten shot?

THE WITNESS: Did he tell anybody?

MR. WISHAM: Yes.

A. I mean I wasn't around. He probably did tell somebody how but I wasn't around when he told somebody how.

Q. Do you know where he got shot?

THE WITNESS: Where at he got shot?

MR. WISHAM: Yes, approximately where.

A. It had to have been by the projects.

Q. The projects is what area, that's in Mount Vernon?

A. Yes.

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2 Q. Do you know what street that
3 would have been on?

4 A. 3rd Street.

5 Q. Who was Julian Rene with when
6 he got shot?

7 A. Me.

8 Q. He was with you?

9 A. Yes.

10 Q. Was he with anybody else?

11 A. No, he was just with me when he
12 got shot.

13 Q. So, you saw him get shot?

14 A. I did not see him get shot
15 because when the shots was being fired me
16 and Julian Rene ran into cover.

17 Q. You ran into where?

18 A. Ran into cover. I was on the
19 floor behind a car and when I yelled I
20 noticed that Julian Rene was behind the car.

21 Q. Behind what car?

22 A. I don't know exactly what type
23 of car it was. It was a car.

24 Q. Do you know who was doing the
25 shooting?

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Q. You and Julian Rene hopped into the white minivan?

A. Yes.

Q. Who was driving the white minivan?

A. I believe it was Corey Marrow.

Q. Corey Marrow, yourself and Julian Rene were at the scene where the shots had occurred; correct?

A. No, Corey Marrow was not at the scene. We met Corey Marrow on 9th and 3rd.

Q. 9th and 3rd; correct?

A. Yes.

Q. How did you and Julian Rene meet Corey Marrow on 9th and 3rd?

A. Mr. Marrow just happened to be coming down 9th. We seen the car and we stopped him.

Q. Were shots still being fired at the time?

A. Yes.

Q. Do you recall how many shots were fired?

A. Around six or seven.

Q. So, you and Julian Rene hopped into Corey Marrow who was driving the white van; correct?

MR. THOMPSON: Objection to form.

Q. You, Julian Rene, right, got into Corey Marrow's car that he had been driving which was a white minivan; correct?

A. Yes.

Q. What was said between yourself, Julian Rene and Corey Marrow during this time that you were in the van?

A. "Somebody was just shooting."

Q. Who said that?

A. I did.

Q. Was there a response?

A. It was "Who was shooting?" "I don't know."

Q. Did Julian Rene say anything during this time?

A. I don't believe so. I can't recall.

Q. Do you recall whether or not the white van had a windshield, rear

windshield that was broken?

A. I don't recall.

Q. Corey Marrow drove to 328 S.
2nd Avenue; correct?

A. Yes.

Q. Did Mr. Rene receive any
medical treatment?

A. Not at my aunty's house.

Q. Where did he receive it?

A. I don't know if he received any
medical attention at all but I know at the
time me being with him on that day he did
not receive medical attention when I was
with him.

Q. When he got into the white
minivan, he didn't say "Oh, I'm hurt. Drive
me to the hospital?"

A. No.

Q. The police eventually left your
apartment after what, three and-a-half hours
you said?

A. Three and-a-half hours.

Q. Did they arrest you?

A. No.

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2 Q. Did they arrest anybody in that
3 apartment?

4 A. No.

5 MR. WISHAM: I'd like to have a
6 document marked for identification.

7 (Whereupon, Defendant's Exhibit
8 C, Adult Profile Sheet, was marked
9 for Identification.)

10 MR. THOMPSON: Kraig, you got
11 your eyes about five inches from the
12 record. Do you have trouble reading?

13 THE WITNESS: Yes.

14 MR. THOMPSON: Do you have
15 glasses or something that you can use
16 to make it easier for you to read?

17 THE WITNESS: No, I lost my
18 glasses.

19 MR. THOMPSON: I guess the
20 record should also reflect Mr. Utley
21 is looking at what's been marked as
22 Defendant's Exhibit C.

23 Q. You've been given a copy of
24 what's been marked as Defendant's Exhibit C;
25 correct?

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A. Yes.

Q. At the top it says Aegis Public
Safety System; correct?

A. Yes.

Q. Mount Vernon Police Department?

A. Yes.

Q. Adult Profile Sheet?

A. Yes.

Q. It's got your name underneath,
Utley, Kraig?

A. Yes.

Q. It says height 5'4", is that
approximately correct?

A. Yes.

Q. Approximately 135 pounds in
weight?

A. Yes.

Q. Brown eyes?

A. Yes.

Q. Black hair?

A. Yes.

Q. Date of birth 11-25-1988?

A. Yes.

Q. Below it says previous address.

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A. Yes.

Q. Is that information correct,
that you had a previous address at 347 S.
4th Avenue?

A. Yes.

Q. And 247 S. 4th Avenue?

A. No.

Q. You never lived there?

A. No.

Q. What about 210 S. 3rd Avenue?

A. Yes, but not on this date.

Q. And the date that says that you
lived at the previous address 210 S. 3rd
Avenue, that was 6-27-2006?

A. 6-27-2006 I lived at 210 S.
3rd Avenue.

Q. What date did you live there?

A. I moved from 210 S. 3rd Avenue
in 2001.

Q. But you did live there?

A. Yes.

Q. I just want to -- before I ask
you -- go into this report, let me ask you
this: Have you ever been arrested before?

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A. Yes.

Q. Do you recall approximately how many times?

A. Between five and ten.

Q. Five and ten times?

A. Yes.

Q. Do you recall the first time you were arrested?

A. The first time, yes.

Q. What were you arrested for?

A. Marijuana.

Q. Do you recall the disposition of that case?

THE WITNESS: Disposition?

MR. WISHAM: Yes.

Q. Was it dismissed, did you plead guilty, was there a trial?

A. The first time I was arrested was I was 16 and I got arrested in school.

Q. And --

A. That was for attempted robbery.

Q. Okay.

A. I ended up pleading guilty and received three years probation.

1
2 Law 205.30, resisting arrest.

3 Were you ever arrested for resisting
4 arrest?

5 A. I was arrested for.

6 Q. Have you ever been arrested for
7 resisting arrest?

8 A. Yes.

9 Q. When?

10 THE WITNESS: Like by myself
11 resisting arrest or arrested for
12 another charge and they put resisting
13 arrest on?

14 MR. WISHAM: Why don't you just
15 tell me if you ever resisted arrest
16 and the circumstances whether or not
17 it was for a different charge or any
18 charge.

19 MR. THOMPSON: I'm going to
20 direct him not to discuss the
21 circumstances of arrests other than
22 what we're here for today.

23 Q. You indicated you've been
24 arrested for resisting arrest; correct?

25 A. Yes.

the city?

MR. WISHAM: Yes.

A. This will be my first suing
incident.

Q. You weren't physically injured;
correct?

A. No.

Q. Did you sustain any injuries on
March 20th, 2013?

MR. THOMPSON: Objection.

Asked and answered.

MR. WISHAM: I asked about
physical injuries. I said injuries,
counselor.

Q. Did you sustain any injuries on
March 20th, 2013?

THE WITNESS: Clarify injuries.

Q. Were you harmed in any way on
March 20th, 2013?

THE WITNESS: Bodily harmed,
physically harmed, mentally harmed?

Q. Were you harmed in any way,
were you harmed in any manner?

A. I wasn't physically harmed but

emotionally I was harmed.

Q. How were you emotionally harmed?

A. Because I had to sit in a house in prison for three and-a-half hours for nothing.

Q. As a result of your emotional harm, did you see any medical personnel?

A. No.

Q. No counselors?

A. No.

Q. As a result of your emotional harm, are you limited in any activities today that you could perform on March 20th, 2013?

THE WITNESS: Clarify your question.

Q. You said you have emotional injuries; correct?

A. Yes.

Q. Do you still have the emotional injuries today?

A. Yes.

Q. How?